

CITY OF HOBBS

ORDINANCE NO. 1052

AN ORDINANCE AMENDING CHAPTER 3.08
OF THE HOBBS MUNICIPAL CODE
REGARDING LODGERS' TAX

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that Chapter 3.08 of the Hobbs Municipal Code is hereby amended as follows:

3.08.030 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Board" means the Advisory Board established herein to make recommendations to and advise the City Commission, keep minutes of its proceedings and submit its recommendations, advice, correspondence and other pertinent documents to the City Commission.

"City Clerk" means the City Clerk of Hobbs, New Mexico.

"Corporation" means a legally separate entity created by state law possessing its own Taxpayer Identification Number as provided by the Internal Revenue Service of the United States of America.

"Event(s)" means a single observable occurrence that is determined to take place on a given date or date range (limited to a time period not to exceed two (2) weeks) at a specific location.

"Gross taxable rent" means the total amount of rent paid for lodging, not including the State gross receipts tax or local sales taxes.

"Immediate surrounding area" means the extra-territorial planning jurisdiction of the City unless expanded by resolution of the City Commission.

"Lodging" means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises.

"Lodgings" means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings.

"Occupancy tax" means the tax on lodging authorized by the lodgers' tax act.

"Person" means a corporation, firm, other body corporate, partnership, limited liability company, association or individual; person includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, but does not include the United States of America, the State of New Mexico, any corporation, department, instrumentality or agency of the Federal Government or the State Government or any political subdivision of the State.

"Performer" means a paid or otherwise compensated or reimbursed professional speaker, musician(s), or comedian. Specifically excluded are unpaid sports teams, family members or relatives of the promoter or performer.

"Promotion" means production costs of a lodgers' tax event, limited to costs of performer fees.

"Rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax

authorized in the Lodgers' Tax Act.

"Taxable premises" means a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for lodging.

"Tax-exempt Entity" means a corporation, as previously described, that is precluded from paying federal tax due to the type of entity organized under the Internal Revenue Code of the United States of America.

"Tourist" means a person who travels for the purpose of business, pleasure or culture to the City and the immediate surrounding area.

"Tourist-related events" means events as previously described that are planned for, promoted to and attended by tourists.

"Tourist-related facilities and attractions" means Facilities and attractions that are intended to be used by or visited by tourists.

"Tourists related transportation systems" means transportation systems that provide transportation for tourists to and from tourist-related facilities, attractions and events.

"Vendee" means a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

"Vendor" means a person furnishing lodgings in the exercise of the taxable service of lodging.

3.08.140 Eligible uses of lodgers' tax proceeds.

A. Not less than one-half (1/2) of the proceeds of such tax shall be used for the purposes of advertising, publicizing and promoting tourist-related events and facilities and events. Eligible uses of lodgers' tax proceeds shall not include administrative office overhead or expenses (ie. Web site costs) and the purchase of real property or tangible personal property. Eligible uses only consist of expenditures that facilitate the purpose of the lodgers' tax ordinance as stated in Section 3.08.020 of this chapter. Lodgers' tax proceeds shall be awarded on the basis of stimulating the circulation of proceeds by increasing the number of hotel patrons, thereby increasing the lodgers' tax receipts.

B. Any balance of the occupancy tax proceeds not used for the purposes set forth in subsection A of this section may be used by the City to defray the costs of:

1. Collecting and otherwise administering the tax, including the performance of audits required by the Lodgers' Tax Act pursuant to guidelines issued by the Department of Finance and Administration;
2. Establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities, attractions or transportation systems of the municipality or Lea County;
3. The principal of, and interest on, any prior redemption premiums due in

connection with and any other charges pertaining to revenue bonds authorized by Section 3-38-23 or 3-38-24 N.M.S.A. 1978;

4. Advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or Lea County and tourist facilities or attractions within the immediate surrounding area;

5. Providing police and fire protection and sanitation service for tourist-related events, facilities and attractions located in the municipality or Lea County; or

6. Any combination of the foregoing purposes or transactions stated in this section, but for no other municipal or county purpose.

3.08.145 Allocation of proceeds.

During March of each year, an accounting of cash as of February of the current year, less any outstanding contractual or debt service obligations, plus an amount equal to the next year's preliminary budget of lodgers' tax, shall be completed. This amount shall be referred to as "allocable proceeds" and allocated as follows:

1. Fifteen (15) percent of the amount calculated above shall fund public safety and city-incurred sanitation costs associated with lodgers' tax events.

~~4.~~ 2. Per Section 3-38-15 NMSA, 1978 Compilation, as amended, a minimum of fifty (50) percent of the lodgers' tax proceeds generated in Lea County as a Class A county must be used for advertising and promotion and such fifty (50) percent portion may not be accumulated beyond two (2) years nor used for any other purpose. Once each year the Lodgers' Tax Board shall recommend general allocations or events for uses of said fifty (50) percent minimum.

- a. In accordance with the above, the City will allocate up to fifty (50) percent of the allocable proceeds for the advertising, publicizing and promotion of tourist-related attractions, facilities and events by issuing an annual request for proposals. Eligible entities shall include non-profit and for-profit corporations and public entities, including the City Park and Recreation Department. In no case shall funds be allocated to individual persons.
- b. The City will allocate up to twenty five (25) percent of the allocable proceeds for the support of the Lea County Jet Air Service.

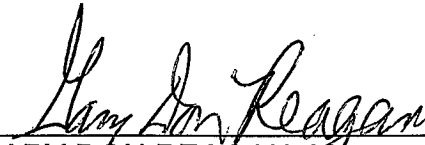
2. 3. The Lodgers' Board is hereby authorized to approve expenditures for smaller events of ~~ten~~ five thousand dollars (~~\$10,000.00~~ \$5,000.00) or less and make recommendations to the City Commission for expenditures of greater amounts for a single event ~~or purpose~~ needing approval prior to the next scheduled quarterly Lodgers' Tax Board meeting

4. Two hundred thousand dollars (\$200,000.00) annually for the next year (1) year, per prior agreement will be paid to the Lea County Commission for capital improvements to the Lea County Events Center.

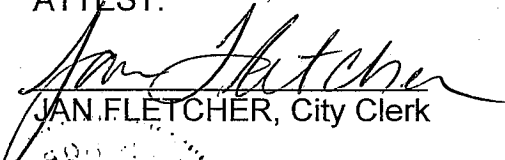
7. 5. Forty-four thousand five hundred dollars (\$44,500.00) shall be paid for the administration of Lodgers' Tax.

9. 6. Second and subsequent years funding regarding for-profit events or those charging a fee, must be reviewed by the Commission, since such events are expected to become self-sustaining over time and require less or no lodgers' tax subsidy.

PASSED, ADOPTED AND APPROVED this 19th day of December, 2011.


GARY DON REAGAN, Mayor

ATTEST:


JAN. FLETCHER, City Clerk

